REMARKS

Applicant is in receipt of the Office Action mailed November 26, 2007. Claims 1-40 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

Section 103 Rejections

Claims 1, 10, 19, and 28 (presumably 28 - 40) were rejected under 35 U.S.C. 103(a) as being unpatentable over Planas et al (US Patent 6,112,015, "Planas") in view of Glaser (US Patent 5,889,520).

Claim 1 recites:

1.   A method comprising:

monitoring a plurality of application tiers, wherein said monitoring includes tracking one or more attributes associated with each of the application tiers, wherein the application tiers execute on one or more server computers, wherein said monitoring is performed by agent software executing on each of the one or more server computers;

displaying a plurality of objects each corresponding to a respective one of the application tiers;

in response to detecting a change in the one or more attributes associated with a given application tier, altering the appearance of the corresponding object to reflect said change.

Nowhere does the cited art teach or suggest **monitoring a plurality of application tiers, wherein said monitoring includes tracking one or more attributes associated with each of the application tiers, wherein the application tiers execute on one or more server computers, wherein said monitoring is performed by agent software executing on each of the one or more server computers**, as recited in claim 1.

Cited col.2:52-54, and Planas in general, is directed to monitoring and management of individual network objects, i.e., network nodes, links, and cards (see, e.g.,

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col.3:66-col.4:25). This text specifically describes a system for monitoring a telecommunications network consisting of these network objects. Note that Planas specifically excludes items such as databases, operating systems, terminals and printers from being considered telecommunications network objects. No mention is made of monitoring *application tiers*, i.e., where an application tier comprises an entire class or category of devices. Examples of application tiers include, "web clients, web servers, networks, application servers, database servers, storage servers, etc." (see, e.g., paragraph [0015]). In other words, each of these application tiers includes a number of application components in that functional category, and monitoring is performed *at the tier level*, not just with respect to certain individual "network objects", as with Planas. Nowhere does this citation, or Planas in general, disclose *monitoring a plurality of application tiers*. Applicant further notes that in the Office Action's arguments with respect to claims 9, 18, and 27, the Office Action admits that Planas fails to disclose application tiers.

Similarly, cited col.2:63-67 discloses imparting attributes (selected from a set of possible attributes) to icons representing individual network objects, where each attribute represents a different predetermined base state of the respective network object. In other words, the attributes are for individual network nodes, links, and/or cards, *not* application tiers.

Thus, Planas fails to teach or suggest **monitoring a plurality of application tiers, wherein said monitoring includes tracking one or more attributes associated with each of the application tiers**.

The Office Action admits that Planas fails to disclose **wherein the application tiers execute on one or more server computers, wherein said monitoring is performed by agent software executing on each of the one or more server computers**, but asserts that Glaser remedies this admitted deficiency of Planas, citing col.7:28-42, col.4:48-67, and col.8:38 – col.9:7.

First, Applicant respectfully notes that Glaser nowhere teaches agent software at all, and more specifically fails to disclose agent software executing on each of one or more server computers to monitor application tiers, thus, Glaser does not, and cannot teach this feature of claim 1.

Cited col.7:28-42 is directed to a topological view of a multi-tier network, but fails to disclose software agents executing on server computers monitoring the application tiers.

Cited col. 4:48-67 describes a development environment for implementing the system of Glaser, specifically, a Rapid Application Development (RAD) tool for constructing client-server applications for a multi-tier computer network architecture, but fails to disclose software agents executing on server computers monitoring application tiers, as claimed. The Office Action states that "Monitoring of the application tiers is handled by a Rapid Application Development tool". Applicant respectfully disagrees, but notes that if this were the case, this rapid application development tool would certainly not be equivalent to software agents executing on server computers as claimed.

Cited col.8:38 – col.9:7 discloses viewing a graphical representation of multi-tier network performance parameters, but again, fails to disclose software agents executing on server computers monitoring application tiers.

Applicant respectfully notes that Glaser is silent as to how the performance information is collected. For example, Applicant notes that Glasers claims refer to "receiving a data structure containing performance information", but do not recite how this data structure is populated. The only other mention Glaser makes regarding the source of the performance information is in col.8:60-62, which reads: "The performance information is obtained from the network manager, database manager(s), and/or web manager(s)".

Thus, Glaser fails to disclose these features of claim 1.

The cited art also does not teach or suggest **displaying a plurality of objects each corresponding to a respective one of the application tiers**, as recited in claim 1. As noted above, Planas is directed to individual network objects, and does not teach or suggest objects that each "correspond[ing] to a respective one of the application tiers. For example, the cited portion of Planas at col. 2, lines 26 – 28 refers to displaying icons for individual network objects, NOT application tiers, e.g., an entire category of devices. Applicant submits that performing monitoring and display of entire application tiers is

very different than the operations performed on individual network objects as taught in Planas.

Nor does the cited art disclose **in response to detecting a change in the one or more attributes associated with a given application tier, altering the appearance of the corresponding object to reflect said change**, as recited in claim 1.

Cited col.8:17-25, and Figure 20 of Planas disclose icons representing network objects that represent states of the network objects. As noted above, these icons represent states of individual network objects, e.g., network nodes, links, and cards, *not* application tiers (entire categories of devices), and so Planas fails to disclose this feature.

Nor does Glaser disclose this feature. For example, as noted above, cited col.8:38 – col.9:7 discloses viewing a graphical representation of multi-tier network performance parameters. Applicant notes that while Glaser does mention tier icons being expanded to display their constituent hierarchies, e.g., expanding an HTML site to show all the web-pages of that site (col.8:15-37), and further describes displaying performance information in a GUI, specifically, in a designated portion of the topology display window, nowhere does Glaser describe or illustrate altering the appearance of an object representing an application tier, i.e., a tier icon, to reflect a change in an attribute of the application tier.

Rather, in the cited text, Glaser describes displaying links in such a way as to indicate performance information:

> For example, values for network or database(s) performance can be displayed next to the related data paths 618, or animated symbols (for instance, dashed lines 626) may be visually displayed to represent movement of application files and data across different tiers or between application files within a tier. The rate that these animated symbols move along the data paths (solid lines 618), their colors, or their thicknesses may vary according to the performance and data transfer rate of the network.

Nowhere does the cited text, or Glaser in general, disclose modifying the appearance of a tier icon to reflect a change in an attribute of the tier.

Thus, Applicant submits that the cited art fails to teach or suggest these features of claim 1.

Moreover, Applicant submits that a proper motivation to combine these references has not been provided. For example, Applicant notes that the suggested motivation: "to provide detailed, easily conveyed, simplified view of the network connectivity, activities, and performance to a user", is simply a statement of presumed benefit of Applicant's invention as represented in claim 1, and is so broad as to be applicable to virtually any innovation regarding visualization of network systems. Nowhere do Planas or Glaser indicate or even hint at the desirability of the particular combination of features and limitations recited in claim 1. Thus, Applicant submits that, lacking a proper motivation to combine, Planas and Glaser are not properly combinable to make a prima facie case of obviousness.

Moreover, even were Planas and Glaser properly combinable, which Applicant argues they are not, the resulting combination would still not produce Applicant's claimed invention, as explained at length above.

Thus, for at least the reasons provided above, Applicant submits that claim 1, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Independent claims 10, 19, and 28, include similar limitations as claim 1, and so the above arguments apply with equal force to these claims. Thus, for at least the reasons provided above, Applicant submits that claims 10, 19, and 28, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Applicant thus respectfully requests removal of the section 103 rejection of claims 10, 19, and 28 (- 40).

Claims 2-4, 6, 7, 11-13, 15, 16, 20-22, 24, and 25 stood rejected under U.S.C. 103(a) as being unpatentable over Planas, in view of Glaser, and further in view of

Enchanted Learning (Graphic Organizers, web page).

Claims 9, 18, and 27 stood rejected under U.S.C. 103(a) as being unpatentable over Planas, in view of Glaser, and further in view of McMillian, et al (US Patent 5,926,176, "McMillian").

Claims 5, 14, and 23 stood rejected under U.S.C. 103(a) as being unpatentable over McMillian, in view of Glaser, and further as modified by Enchanted Learning.

Claims 8, 17, and 26 stood rejected under U.S.C. 103(a) as being unpatentable over McMillian, et al as modified by Enchanted Learning.

Applicant submits that since the base claims for the dependent claims rejected under section 103(a) have been shown above to be patentably distinct and non-obvious, their respective dependent claims are similarly patentably distinct and non-obvious, and thus allowable.

Moreover, Applicant asserts that numerous ones of the dependent claims recite further distinctions over the cited art.

For example, regarding claims 7, 16, and 25, nowhere does the cited art teach or suggest **wherein each of the plurality of indicators corresponds to a different attribute of the application tier**.

The Office Action admits that Planas fails to teach or suggest "wherein each of the plurality of indicators corresponds to a different attribute of the network objects", but asserts that Enchanted Learning remedies this admitted deficiency of Planas.

Applicant respectfully notes that an "attribute of the network objects" is not the same as an *attribute of an application tier*, which Planas also fails to teach or suggest. Nor does Enchanted Learning, which is directed to the static display of information, teach or suggest displaying indicators corresponding to *attributes of an application tier*.

Thus, the cited art fails to teach or suggest the limitations of claims 7, 16, and 25, and so claims 7, 16, and 25, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

As another example, nowhere does the cited art disclose **wherein each of the one**

or more of objects is connected by a directional arrow, wherein the directional arrow represents the data flow between the plurality of application tiers, as recited in claims 9, 18, and 27.

The Office Admits that Planas and Glaser fail to disclose directional arrows connecting objects representing application tiers where the arrows represent data flow between the application tiers, but then asserts that McMillan remedies this admitted deficiency, citing McMillan's flowcharts that include directional arrows (col.1:39-49), and asserting that these arrows represent data flow. Applicant respectfully submits that per McMillan, these arrows represent control or logic flow, not data flow, and so McMillan fails to provide this feature.

Thus, the cited art fails to teach or suggest the limitations of claims 9, 18, and 27, and so claims 9, 18, and 27, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over the cited art, and are thus allowable.

Moreover, Applicant asserts that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

Applicant thus respectfully requests removal of the section 103 rejection of the dependent claims.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5760-14500/JCH.

Also filed herewith are the following items:
☐ Request for Continued Examination
☐ Terminal Disclaimer
☐ Power of Attorney By Assignee and Revocation of Previous Powers
☐ Notice of Change of Address
☐ Other:

Respectfully submitted,

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